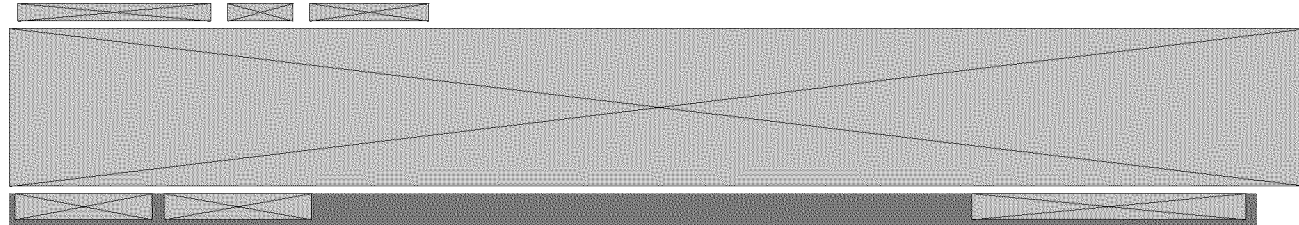


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## Latest Developments

### EPA 'Likely' to Issue Final RFS in June, McCarthy Says

*Posted April 09, 2014, 10:42 A.M. ET*

Environmental Protection Agency Administrator Gina McCarthy tells a Senate Appropriations subcommittee April 9 that the agency will "likely" issue a final 2014 renewable fuel standard in June.

"It should never go beyond that," McCarthy said, adding she hopes the agency can propose the annual targets more quickly in the future.

In November, the EPA proposed requiring petroleum refiners and importers to blend 15.21 billion gallons of renewable fuels in 2014, substantially less than the 18.15 billion gallons Congress mandated under the 2007 Energy Independence and Security Act.

### EPA Official Urges Localities to Update Source Water Plans

*Posted April 09, 2014, 4:06 P.M. ET*

In light of the chemical spill in West Virginia's Elk River, the second ranking Environmental Protection Agency official said publicly owned drinking water utilities ought to begin updating their source water protection plans to be prepared to deal with threats to drinking water supplies.

At the National Clean Water Policy Forum, EPA Deputy Administrator Bob Perciasepe said source water protection plans, which should have been completed by 2003, have not been updated since then. "I mentioned this to drinking water folks earlier this week and I'll reiterate it here that it's not a bad time now to take those off the shelf and take a look at them to see what has been done and what hasn't been implemented and what's missing."

Source water constitutes from rivers, streams, reservoirs and aquifers that is treated and used for drinking water purposes. Under the Safe Drinking Water Act, states are required to develop and implement source water assessment plans. This is a process for evaluating a public water system's source water and assessing its vulnerability to contamination. Based on the information in the assessment, utilities develop plans to assess those risks. Utilities are under no obligation, however, to implement those plans.

Without naming Freedom Industries, Perciasepe said the facility that was the source of the chemical that

Daily Environment Report

contaminated the drinking water supplies of Charleston residents was identified in West Virginia's 2003 source water protection plan.

Perciaspe said that "the preparedness part is as essential as the identifying part. We have learned that."

### **Existing Water Act Authorities Suffice for Stormwater: EPA Official**

*Posted April 09, 2014, 4:05 P.M. ET*

The top ranking Environmental Protection Agency water official said April 9 that the agency decided to defer national stormwater rulemaking after recognizing that it has the existing authority and tools under the Clean Water Act to tackle the problem.

"The reason is because we feel like there is a lot of existing authority and tools to accomplish the same goals. We need to maximize what we can do by creating incentives," Nancy Stoner, EPA acting assistant administrator for water, said on the final day of the April 7-9 National Clean Water Policy Forum.

The agency had confirmed March 19 to Bloomberg BNA that it was deferring action on its rule to address stormwater from newly built and redeveloped sites and instead will provide incentives, technical assistance and other approaches for cities and towns to address it themselves.

### **EPA to Take a Year to Revise Lead-Copper Drinking Water Rule**

*Posted April 09, 2014, 4:12 P.M. ET*

The Environmental Protection Agency plans to propose revisions to its 20-year-old lead-copper drinking water rule after an agency working group completes its deliberations, which should take "about a year," the agency's top drinking water official said April 9.

On the final day of the National Clean Water Policy Forum, Peter Grevatt, director of the Office of Groundwater and Drinking Water, said the revisions to the lead-copper drinking water rule would be issued following the deliberations of a work group that has been set up at the National Drinking Water Advisory Council.

Grevatt said the work group would be charged with looking at lead-sampling protocols and measures to replace lead service lines, among other issues.

He said there are 10 million lead service lines in the country. "It's a very expensive proposition to replace them all. The process is complicated because the lines are partly owned by utilities and partly owned by homeowners," he said.

The lead and copper rule requires drinking water utilities that have lead service lines and optimized corrosion control—but which still exceed the legal limit known as the "action level" for lead—to replace 7 percent of their lead service lines annually, replace the portion of the line that the system owns and offer to replace the customer's portion of the line at the customer's cost. A full line replacement would involve replacing the service lines from the water main to homes.

### **Final Clean Water Act Jurisdiction Rule Possible in 'About a Year' McCarthy Says**

*Posted April 09, 2014, 11:18 A.M. ET*

Environmental Protection Agency Administrator Gina McCarthy says the agency will look to finalize a proposed rule clarifying its Clean Water Act jurisdiction in "about a year," but it will take "whatever time it takes to get this right."

The EPA will listen to comments and concerns about the proposed regulation, and it will consider rethinking language in the proposal to address those concerns.

McCarthy acknowledges there is significant distrust between the agricultural industry and the EPA about the proposed regulation, and she pledges to conduct significant outreach to address the industry's concerns.

"I really want this rule to work for the agriculture community," McCarthy tells a Senate Appropriations subcommittee during a hearing on the fiscal 2015 budget request for the EPA

The EPA and the U.S. Army Corps of Engineers issued the joint proposed rule on March 25.

### **Staff Cuts to Affect Technical Assistance, Grants, Perciasepe Says**

*Posted April 09, 2014, 3:18 P.M. ET*

A reduced workforce at the Environmental Protection Agency owing to spending constraints will affect the level of grants and technical assistance that the agency can offer to states and localities, according to EPA Deputy Administrator Bob Perciasepe.

Speaking on the final day of the National Clean Water Policy Forum, Perciasepe said the agency is in the process of reducing its workforce by almost 2,000 people in response to budget constraints placed on its spending by Congress.

Most important, though, "all this will affect what kind of technical assistance we can give, what kind of state grants we can have, and what's going to happen to [state revolving funds]," Perciasepe said.

He said the EPA, which hasn't been immune to cuts in domestic discretionary spending, will have only so much money in discretionary federal spending. "We have to figure out the balance between different parts of it: the part that funds EPA's work, the part that funds grants for state operations, and the part that funds infrastructure and superfund so all of those are tight," he said.

### **House Transportation Passes Bill Limiting EPA Dredge-and-Fill Permit Authority**

*Posted April 09, 2014, 12:55 P.M. ET*

The House Transportation and Infrastructure Committee passes a bill April 9 that would restrict the Environmental Protection Agency's ability to revoke a clean water dredge-and-fill permit after the U.S. Army Corps of Engineers has approved the permit.

The committee approved the bill (H.R. 524) on a 34-20 vote, largely along party lines with support from Republicans and some Democrats. Rep. David McKinley (R-W.Va.) and 10 co-sponsors introduced the bill Feb. 6.

Currently, the EPA may alter or revoke a dredge-and-fill permit at any time under Clean Water Act Section 404(c), even after the permit has been approved by the corps, if it determines the actions will cause unacceptable harm to the environment.

Potentially affected industries include construction, mining and agriculture, among others.

The EPA has revoked portions of a dredge-and-fill permit for a surface coal mine owned by Arch Coal Inc. in West Virginia. It also recently began the process under Section 404(c) to consider preemptively vetoing a Section-404 permit for the proposed Pebble Mine in Alaska, owned by Northern Dynasty Minerals Ltd.

### **DOT Plans to Set Minimum Crew Size for Crude Oil Trains**

*Posted April 09, 2014, 2:07 P.M. ET*

The Federal Railroad Administration announced that it intends to propose minimum crew-size requirements for most mainline freight and passenger trains, including trains carrying crude oil.

The administration, in an April 9 statement, said that the proposed rule will likely require a minimum of two-person crews for trains carrying crude oil. The proposed rule also is expected to establish "appropriate" exceptions to the minimum crew-size requirements, according to the administration.

FRA Administrator Joseph Szabo said in an April 9 statement that the administration thinks the use of a multi-person train crew will enhance safety. "Ensuring that trains are adequately staffed for the type of service operated is a critically important to ensure safety redundancy," Szabo said.

Presently, FRA regulations do not include minimum crew-staffing requirements, but the current rail industry practice is to have two-person crews, according to the administration.

The safety of transporting crude oil by rail has been a priority for the Transportation Department, which is also considering new tank-car standards for cars in flammable liquid service.

A July 2013 derailment of an unattended train carrying crude oil in Lac-Mégantic, Quebec resulted in the deaths of 47 people.

### **DOT's Foxx Says Lack of Oil Industry Data Slowing Rail Safety Efforts**

*Posted April 09, 2014, 11:40 A.M. ET*

Transportation Secretary Anthony Foxx told a Senate Appropriations subcommittee April 9 that the failure of the oil industry to respond to a request for data on the characteristics of crude oil from North Dakota's Bakken shale region is slowing down efforts to improve the transport of crude oil by rail.

Foxx told the Subcommittee on Transportation, Housing and Urban Development and Related Agencies that the DOT has received information from three individual oil companies but has not received "robust" data from the oil industry, despite a January request for as much information as possible. Foxx noted that the department is conducting its own testing of Bakken crude samples, but said a larger number of samples would allow for a better assessment of crude oil characteristics.

The lack of data sharing is slowing down the DOT's ability to inform Congress on the volatility of Bakken crude oil and slowing down efforts to coordinate with emergency responders on crude-by-rail safety, according to Foxx. The Pipeline and Hazardous Materials Safety Administration issued a safety alert in January cautioning that crude oil from the Bakken region may be more flammable than other types of crude oil.

Foxx also said federal regulators need a "comprehensive understanding" of crude oil characteristics to develop new standards for rail tank cars that are used to transport flammable liquids. The DOT is working on a "complete and thorough" tank car rule that would address the design of new cars and the safety of existing DOT-111 rail tank cars.

"It all starts with knowing what we're transporting," Foxx said.

Foxx said his target date for issuing a proposed tank car rule is "as soon as possible" but declined to provide a more specific timeline when asked by Subcommittee Chairwoman Patty Murray (D-Wash.) and Subcommittee Ranking Member Susan Collins (R-Maine).

Companies involved in Bakken: Marathon Oil Corp., ConocoPhillips Co. and Whiting Petroleum.

### **Murkowski: EPA Regulations Could Fundamentally Change Economy**

*Posted April 09, 2014, 3:10 P.M. ET*

At a Senate Appropriations subcommittee hearing today, Sen. Lisa Murkowski (R-Alaska) says forthcoming EPA regulations on carbon pollution from power plants could jeopardize the affordability and reliability of electricity in the United States.

Murkowski says the power plant regulations are part of a broader, troubling pattern of EPA actions that could "fundamentally change our economy and the lives of the people we are here to represent."

The Alaskan Republican, speaking to EPA Administrator Gina McCarthy, also expresses concern over the agency's recently proposed rule on Clean Water Act jurisdiction, which she says would drastically expand the lands subject to regulation.

### **Oil Industry Wants Biodiesel 'Loophole' Closed in Fuel Credits Rule**

*Posted April 09, 2014, 2:37 P.M. ET*

Allowing biodiesel producers to separate and sell renewable fuel credits creates more opportunities for fraud in the renewable identification number market, petroleum groups told the Environmental Protection Agency and White House during a recent meeting.

The American Petroleum Institute, American Fuel & Petrochemical Manufacturers and Exxon Mobil Corp. told the

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EPA and Office of Management and Budget to eliminate the ability of biodiesel producers to sever renewable identification numbers (RINs) from batches of fuels produced as part of an upcoming final rule establishing a quality assurance program for the fuels credit market. RINs are serial numbers attached to batches of renewable fuels that also can be severed and sold as credits to comply with the annual renewable fuel standard blending mandates.

"EPA must close the loophole for RIN separation, which has been the source of over 170 million fraudulent RINs. The volume of biodiesel used as neat transportation fuel is miniscule compared with the risk for RIN invalidity," the petroleum groups said in [materials](#) presented to the administration at the March 24 meeting.

However, biodiesel producers told the administration that it needs the revenue generated by selling its RINs during a separate March 24 meeting.

The EPA proposed the rule in February 2013. As proposed, it would establish qualifications for third-party auditors who would determine the validity of the renewable identification numbers (RINs)—serial numbers attached to batches of renewable fuels. It also would establish audit procedures for renewable fuel production facilities, including minimum frequency, site visits, review of records and reporting requirements.

As part of that proposed rule, the EPA is taking comment on whether renewable fuel producers should be allowed to separate and sell their own RINs. The EPA anticipates finalizing the rule in April.

### **Bill to Expedite LNG Exports Approved by House Panel**

*Posted April 09, 2014, 4:10 P.M. ET*

A House Energy and Commerce subcommittee approves a bill (H.R. 6) April 9 that would automatically approve licenses to export natural gas to countries that are members of the World Trade Organization.

The Subcommittee on Energy and Power approves the bill on a 15-11 party-line vote and adopts one amendment from Rep. Bobby Rush (D-Ill.) on a voice vote. The Rush amendment would require the Department of Energy to disclose the specific destination of any liquefied natural gas exports.

Rush says consumers need to know whether natural gas exports actually reach Europe or will be sold to higher-priced markets in Asia.

Democrats say they plan to offer more amendments at the full committee markup, which will follow the two-week congressional spring recess. Those amendments will focus on the impacts to U.S. consumers and manufacturers of LNG exports, they say. No Democrats voted for the bill.

The Republican-sponsored bill also would approve the 24 LNG export license applications pending at the Energy Department. Rep. Cory Gardner (R-Colo.), the bill's sponsor, says the legislation is a response to calls for help from Eastern European countries that want to reduce their dependence on Russian oil and gas exports.

### **California Lawmakers Advance Bills on Fracking, Response Plan**

*Posted April 09, 2014, 4:21 P.M. ET*

California's Senate Committee on Natural Resources and Water Quality April 8 advanced measures seeking to impose a moratorium on hydraulic fracturing activities at oil and gas fields and updates to the state's oil response program to address the risks of importing crude oil by rail.

Both bills now head to the Senate Committee on Environmental Committee for further action.

The measure to halt oil and gas well stimulation treatments, S.B. 1132, cleared the committee on a 5-2 vote.

S.B. 1132, however, did not have broad support from Democrats on the committee. Sen. Fran Pavley (D) provided the fifth vote needed to advance the bill that would ban oil and gas well stimulation activities throughout the state until a study can deem the activities safe for the public and environment.

Democrats, including Richard Lara, abstained from the vote, saying the measure would affect his constituents that work at oil and gas fields in Southern California.

If enacted, the measure would bar hydraulic fracturing, acidization treatments and other stimulation treatments used

to improve mostly oil production in the state. Even if passed by the full Senate and Assembly, the fate of S.B. 1132 falls to Gov. Jerry Brown (D), who so far has not supported a moratorium on oil and gas well stimulation activities.

## Guide Released to Improve 'Traceability' in Corporate Supply Chains

*Posted April 09, 2014, 2:36 P.M. ET*

The United Nations Global Compact and sustainability advisory group BSR released April 9 a [guide](#) to help companies improve "traceability" in their supply chains.

Currently, only a small percentage of commodities are traceable on sustainability issues, meaning companies can identify and track a product's path from raw material to finished good, the guide said. But traceability is becoming increasingly important to companies seeking to make their supply chains more transparent and meet their sustainability goals.

The guide uses examples of existing traceability systems for commodities such as biofuels, beef and palm oil to show companies which sustainability issues are relevant to each commodity and identify best practices in tracing it. Companies that are active in traceability efforts for those commodities include BP, McDonalds and Unilever.

## NOAA Official: Right Economic Drivers Needed for Coastal Restoration

*Posted April 09, 2014, 12:18 P.M. ET*

The loss of coastal ecosystems is a problem that cannot be solved with government funding alone, a National Oceanic and Atmospheric Administration official said April 9.

"We have to get the economic drivers right" so that decision makers in the private sector, individual landowners and others consider the value of coastal ecosystem services in their investment decisions, Mark Schaefer, NOAA's deputy administrator, said during an event organized by the Center for American Progress and Oxfam America.

To help get those valuations right, Schaefer said decision makers need tools such as natural capital accounting that put a price on the benefits of coastal ecosystems. These ecosystems can provide benefits such as buffering storm surges, safeguarding coastal homes and businesses, and sequestering carbon.

## EPA Seeks Advice on Applying Mixing Zone, Blending Policy Ruling

*Posted April 09, 2014, 10:48 A.M. ET*

The Environmental Protection Agency will use the latest scientific research to inform its decision on whether to relax nationwide policies on wastewater treatment practices during heavy rains in response to an appeals court ruling.

At the final day of the National Clean Water Policy forum today, Nancy Stoner, acting assistant administrator for water, said the EPA would publish a Federal Register notice to invite scientists to be on a panel that would advise the agency on whether public health would be served in applying nationwide a 2013 ruling handed down by U.S. Court of Appeals for the Eighth Circuit in Iowa League of Cities v. EPA.

In that decision, the Eighth Circuit rendered invalid the EPA's policies banning bacteria mixing zones in receiving water used primarily for recreational activities such as swimming, as well as the practice of blending partially and fully treated wastewater inside the treatment plants prior to discharge into nearby waters. The ruling also declared the ban on blending practices to be illegal under the Clean Water Act.

EPA was asked by representatives of the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the International Municipal Lawyers Association and the National Association of Clean Water Agencies, which represents publicly owned municipal wastewater treatment plants, in November to end regulatory confusion by applying the appellate decision nationwide.

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